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In re Application of :
Johannes G. Bednorz et al. :
Application No. 08/479,810 : DECISION GRANTING
Filed: June 7, 1995 : PETITION
Attorney Docket No. Y0987074BZ :
:

This is a decision on the response filed June 3, 1996, in response to the "Letter Regarding Improper Filing" mailed February 20, 1996, which is treated as a petition requesting that the request for a CIP application under 37 CFR 1.60 be disregarded and that the application be considered as a continuation application under 37 CFR 1.60.

The petition is accompanied by a copy of a specification and drawings. However, the copy provided is not a true copy of the prior application as originally filed. On August 30, 1996, in response to a telephone communication from David Bagnell of the Office of Petitions, petitioners filed a true copy of the prior application.

37 CFR 1.60(b) states, in part, that if a true copy of the prior application as filed is not filed with the application or if the statement that the application papers are a true copy is omitted, the application will not be given a filing date earlier than the date upon which the copy and statement are filed, unless a petition with the fee as set forth in 37 CFR 1.17(i)(1) is filed which satisfactorily explains the delay in filing these items.

A review of the record reveals that petitioners have indicated that the original request inadvertently requested a continuation-in-part application when they intended to file a continuation application. Accordingly, on petition, the request will be treated as a request for a continuation application, not a continuation-in-part application.

A further review of the record reveals that all the requirements for an application filed under 37 CFR 1.60 have now been met.

Therefore, on petition, the application may be accorded the requested filing date under 37 CFR 1.60.

The petition is granted.

The copy of the application filed June 3, 1996, is withdrawn and will not be entered or used during the prosecution of this application.

The copy of the prior application filed on August 30, 1996, will be entered in due course.

The preliminary amendment to the claims filed June 3, 1996, will be entered in due course and must be considered by the examiner for entry of new matter not described in the application as filed. 35 USC 112, first paragraph; 35 USC 132.

The application is being forwarded to the Office of Finance for charging the \$130.00 petition fee to counsel's deposit account No. 09-0468 as authorized in petition.

Thereafter, the application will be returned to Application Division for further processing with a filing date of June 7, 1995, as continuation application under 37 CFR 1.60 of prior application Serial No. 08/303,561, using the application papers filed August 30, 1996.

Any inquiries related to this decision should be directed to David Bagnell at (703) 305-9177, or if not available, to the undersigned at (703) 305-9282.

Fred A. Silverberg

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DJB